
Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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OFFICE OF THE SECRETARY

In the Matter of)

Numbering Resource Optimization)

CC Docket No. 99-200)

To: The Commission

REPLY COMMENTS

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COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

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REPLY COMMENTS

Arch Communications Group, Inc. (“Arch”) hereby submits these reply comments relating to various Petitions for Reconsideration of the Commission’s *Order* in the above-captioned proceeding.¹

I. THE COMMISSION SHOULD INCREASE THE TIME PERIOD DURING WHICH A CARRIER MAY HOLD RESERVED NUMBERS

The Commission has determined that carriers may hold a number in reserve for 45 days, with no extension period.² The record currently before the Commission demonstrates that this 45-day reservation period will be extremely disruptive and will result in substantial harm to businesses and large volume customers. Indeed, the Indiana University states that there will be significant adverse impacts upon its telecommunications services if the ability to reserve a specific NXX is limited to 45 days.

As a large volume user providing telecommunications services, [the University] rel[ies] heavily on being able to maintain a number block concept for the simplification and efficiency of our consolidated support systems. Central processes, such as billing, inventory, trouble

¹ *Number Resource Optimization*, Report and Order and Further Notice of Proposed Rule Making, CC Docket No. 99-100, FCC 00-104 (rel. March 31, 2000) (“*Numbering Order*”).

² *Id.* ¶¶ 22-23. By Order dated July 31, 2000, the Commission confirmed this 45-day limit. *See In the Matter of Numbering Resource Optimization*, Order, CC Docket No. 99-200, FCC 00-280, ¶2 (rel. July 31, 2000).

reporting and resolution, will be negatively affected if [the University is] no longer able to reserve numbers within a logical sequence. The discontinuation of reserved numbers will have a profoundly disruptive effect on the University.³

Arch, therefore, strongly supports those petitions and commenters urging the Commission to increase the time period that a carrier may hold reserved numbers.

Numerous commenters and petitioners have also demonstrated that imposing any time limitation on holding a number in reserved status cannot significantly contribute to the Commission's overall goal of "optimizing" number inventory management. Stated simply, numbers held in reserved status generally constitute only a fraction of a carrier's number resource inventory, and by extension, existing numbering reservation practices do not significantly compromise Commission efforts to optimize numbering resources.⁴

Arch accordingly submits that any specific reserve time limitation is necessary or would ultimately serve the Commission's important number "optimization" goal.

II. RESELLER NUMBERS SHOULD NOT BE ATTRIBUTED TO THE UNDERLYING CARRIER FOR CALCULATING UTILIZATION RATES

The *Numbering Order* establishes the classification "intermediate numbers" to cover those numbers "made available for use by another carrier or non-carrier entity for the purpose of providing telecommunications service to an end user or customer," including "numbers provided for

³ Letter from J. Michael Lucas, Director of Telecommunications -- Voice, Indiana University to Magalie Roman Salas, Secretary, Federal Communications Commission dated August 15, 2000. *See also* collected quotations from end-user letters attached to the BellSouth Corporation Emergency Petition for Partial Stay (July 10, 2000) and the Qwest Corporation Request for Expedited Deferral of Effective Date or, Alternatively, a Waiver or Stay of Portions of Soon-to-be Effective Rules 47 C.F.R. §52.15(f) (July 10, 2000).

⁴ *See, e.g.*, AT&T Petition for Reconsideration at 6-8; Opposition/Support of SBC Communications, Inc. at 1-3; Qwest Corporation Petition for Reconsideration at 5-13; Cincinnati Bell Telephone Company Comments at 1-4 ("Although numbers are reserved primarily by large business customers, and the costs and inconveniences the limit will impose on these customers will be significant, CBT urges the Commission not to overlook the cost and problems the limit will also impose on many small businesses and residential customers.").

use by resellers.”⁵ Further, the *Numbering Order* establishes a formula for calculating a carrier’s utilization rate that treats intermediate numbers not yet assigned to end users -- including numbers that have been contractually committed to a reseller’s use -- as if they are available for assignment by the underlying carrier to its own end-users.⁶ In other words, numbers that a carrier has assigned to a reseller, but that have not yet been assigned by the reseller to an end user, are attributed to the underlying carrier in calculating that carrier’s utilization rate.

Arch submits that this treatment of intermediate numbers assigned to resellers is unreasonable. Numbers that have been provided to resellers are not available to the carrier and therefore should not be included in the underlying carrier’s utilization rate. In effect, including such numbers in a carrier’s utilization rate forces the underlying carrier to bear the risk of being unable to secure “growth” numbering resources if the reseller -- not the carrier -- fails to assign numbers to end users. As AT&T demonstrates, for example, assuming a carrier allots three thousands blocks in an NXX to a reseller, but that reseller is able to sell service to only one hundred end users, the underlying carrier cannot mathematically achieve a utilization rate of more than 71% and will be unable to obtain “growth” numbering (assuming a 75% utilization threshold is employed).⁷

Therefore, Arch believes carriers should be permitted to omit from the denominator of the utilization rate calculation any intermediate numbers assigned to a reseller for that reseller’s exclusive use in providing services to its customers.

⁵ *Numbering Order* at ¶ 21.

⁶ *Id.* ¶ 109.

⁷ AT&T Petition at 4-5.

III. CONFIDENTIALITY OF CARRIER-SPECIFIC DATA

In the *Numbering Order*, the Commission acknowledged that states have legitimate reasons for obtaining disaggregated, carrier-specific data.⁸ Therefore, the Commission granted all states access to the data reported to NANPA semi-annually, “subject to the appropriate confidentiality protections described below.”⁹ The Commission, however, did not enumerate particular mechanisms to ensure confidential treatment.¹⁰

Arch agrees with Verizon Wireless that there is a relatively simple way to ensure such protection is afforded.¹¹ As the Commission pointed out in the *Numbering Order*, “disaggregated, carrier-specific forecast and utilization data should be treated as confidential and should be exempt from public disclosure under 5 U.S.C. § 552(b)(4)[the FOIA trade secret exemption].”¹² Arch supports Verizon Wireless’ proposal that the FOIA trade secret exemption, which pertains to “trade secrets *and commercial or financial information . . .*,”¹³ attach to the carrier-specific data reported to NANPA.

Arch is concerned that the Commission appears to have provided for an exception to reported data being kept confidential when the Commission stated, in dictum, that it agreed “with commenters that aggregated data (such as each carrier’s NPA wide utilization rate and number of

⁸ *Numbering Order* at ¶75.

⁹ *Id.*

¹⁰ *Id.* ¶81 (“We decline to require a specific mechanism to ensure confidential treatment.”)

¹¹ Verizon Wireless Petition at 19.

¹² *Numbering Order* at ¶78.

¹³ 5 U.S.C. § 552(b)(4) (emphasis added). Arch agrees with the California PUC that the Commission’s reference to 5 U.S.C. § 552(b)(4) was a reference to the statute’s language pertaining to “commercial or financial information” rather than the language regarding trade secrets. *see* California PUC Comments at 13. Arch believes this to be a non-substantive distinction and supports Verizon Wireless’ proposal regarding confidentiality provisions as this proposal is set forth in Verizon Wireless’ Opposition.

NXXs assigned) do not require the type of confidential protections that we adopt here.”¹⁴ Arch agrees with Verizon Wireless and CTIA that carrier-specific aggregated data, such as each carrier’s NPA wide utilization rate, can be easily disaggregated in such a way that the objective of keeping disaggregated data confidential is rendered moot.¹⁵ As Verizon Wireless points out, carriers compete for customers not only at the rate center level, but at the NPA or even larger levels.¹⁶ This is particularly true for wireless carriers such as Arch who compete throughout service areas that are typically composed of one or more defined market areas such as MEAs, MTAs, etc.

In this environment, subscriber counts at the NPA level constitute highly sensitive information, especially at a time when, as the Commission acknowledged in its *Fifth Report* on the status of competition in the CMRS industry, the entire CMRS industry is experiencing continued, robust competition and, in particular, paging carriers like Arch are facing increased competition from a wide variety of broadband mobile telephony providers.¹⁷ If Arch’s NPA-wide utilization rate is made public, the data can readily be multiplied by the number of NXX codes Arch holds in the NPA

¹⁴ *Numbering Order* at ¶79. The Common Carrier Bureau (“CCB”) added to the confusion by releasing a public notice on July 11, 2000 in which it stated that “each carrier’s NPA-wide utilization rate” is not subject to confidential treatment but may be publicly disclosed because those data purportedly do not provide detailed information on the level of a carriers’ activity or operational plans in a specific local exchange market. Public Notice, *Common Carrier Bureau Responses to Questions in the Numbering Resource Optimization Proceeding*, CC Docket No. 99-200, DA 00-1549 (rel. July 11, 2000).

¹⁵ Verizon Wireless Petition at 21-22; CTIA Comments at 4.

¹⁶ Verizon Wireless Petition at 21.

¹⁷ See, e.g., *Annual Report and Analysis of Competitive Market Conditions With Respect to Commercial Mobile Services*, Fifth Report, FCC 00-289, at 5 (rel. Aug. 18, 2000) (“In the year 2000, the CMRS industry continues to benefit from the effects of increased competition . . . In the mobile data sector, the ongoing transition from paging/messaging to more advanced mobile data services makes it difficult to generalize about the status of competition. The paging/messaging subsector has long been highly competitive . . . virtually all wireless providers, from existing mobile telephone operators to numerous new entrepreneurs - have announced plans to offer consumers an impressive variety of mobile data services. However, many of the providers currently offer mobile data as an add-on to existing mobile voice services.”)

to produce an accurate NPA-wide subscriber count.¹⁸ This is precisely the kind of data the Commission has concluded needs to be kept confidential. Arch agrees with Verizon Wireless and AT&T, among others, that the Commission should clarify that a carrier's utilization rate at the NPA-wide level should remain confidential.¹⁹

Finally, Arch agrees with Verizon Wireless' response to California's claims that it needs carrier-specific, disaggregated data to carry out its responsibilities under state law and that it has the right to such data under state law.²⁰ As Verizon Wireless correctly points out, "Congress has preempted all state authority concerning numbering by vesting plenary power" in the Commission.²¹ Thus, the state-law statutory authorities cited by California as the basis of its right to carrier-specific, disaggregated data are without force because the Commission has occupied the field, pursuant to Congress' mandate.

IV. REPORTING CATEGORIES

While allowing state commissions to have access to data reported semi-annually to the NANPA, the *Numbering Order* specifically prohibits states from imposing additional, regular reporting obligations.²² The Ohio Public Utilities Commission, however, asks the Commission for expanded authority to engage in independent data collection concerning number utilization.²³

¹⁸ In its Comments, AT&T highlights the competitive harms that could befall a new entrant if carrier-specific data is not kept confidential at the NPA-wide level. Specifically, AT&T explains that if "a new entrant operates only in a single rate center, then limiting disclosure to NPA-wide data would provide no protection for that carrier's confidential information. Similarly, in an NPA with a small number of rate centers . . . NPA-wide data may provide competitors with valuable information regarding a carrier's entry strategy" AT&T Comments at 12, n. 41.

¹⁹ Verizon Wireless Petition at 21-22; AT&T Comments at 10-12; CTIA Comments at 1-6.

²⁰ Verizon Wireless Opposition at 3; *see also* PCIA Opposition/Support at 7.

²¹ Verizon Wireless Opposition at 3.

²² *Numbering Order* at ¶¶ 75-76.

²³ *See* Public Utilities Commission of Ohio Petition at 4.

Arch believes it is reasonable that states have access to NANPA data, provided that the data is kept confidential. The fact is that the *Numbering Order* delegates to states various responsibilities regarding numbering, and timely access to information may be necessary for them to carry out these responsibilities. Arch does not agree, however, that this need for reasonable access to NANPA data in any way justifies granting states independent data collection authority with regard to numbering. Indeed, the California Public Utilities Commission recognizes that it is far more efficient for the states to have access to the NANPA data than for states to impose separate reporting requirements on carriers.²⁴

A number of parties have argued persuasively that states should not be able, as a matter of state numbering activity, to require additional numbering initiatives, data collections or reports over and above those required by the *Numbering Order*.²⁵ Arch agrees that, while the states may be permitted to gather data for specific purposes on an *ad hoc* basis, that authority must be narrowly construed.²⁶ To do otherwise would entirely upend the balance of costs and benefits associated with the Commission's data collection and reporting regime.²⁷

V. SEQUENTIAL NUMBERING

Arch concurs with Sprint and other carriers that the Commission's sequential numbering rule is unreasonable and inflexible and should be modified.²⁸ Under the new rule, carriers have flexibility to assign numbers within an existing thousands block, but they may not open a new block

²⁴ California Public Utilities Commission Petition at 14.

²⁵ See WorldCom Petition at 8; WorldCom Opposition at 8-9; Sprint Petition at 19; Verizon Wireless Opposition at 6-8; Qwest Support/Opposition at 8-9.

²⁶ *Numbering Order* at ¶ 76.

²⁷ See Sprint Petition at 19; Qwest Support/Opposition at 8.

²⁸ *Numbering Order* at ¶ 244. See Sprint Petition at 3-5; BellSouth Opposition at 15-16; VoiceStream Opposition/Support at 8-9.

until all numbers in an already opened block are used. This new sequential number assignment rule is simply not workable.

From Arch's perspective, being required to assign 100% of all available numbers in a given thousands block prior to opening a new thousands-block will significantly impair its ability to serve customer needs. Arch, as well as other nationwide carriers, offer customers an increasing array of choices in how they purchase their service, *e.g.*, over the phone, via the Internet, through a retail outlet, direct sales or through third-party retailers. Given the number of markets which Arch serves and the variety of options in how customers purchase service, it is, as a matter of practice, impracticable for Arch to ensure that it uses all available telephone numbers in an opened thousands block before assigning numbers from a new block.

Further, as a nationwide carrier, Arch maintains standard, centralized processes that operate enterprise-wide. Everywhere possible, these processes are automated to support Arch's business. Neither manual nor automated routines will identify depleted blocks nationwide and open new blocks quickly enough to support smooth, continuous customer service. The problem will be particularly acute when Arch must respond to special customer needs. In such circumstances, Arch staff would have to intervene manually, taking time that significantly affects the company's ability to meet customer expectations.

Arch hereby submits a manageable alternative the Commission can adopt to resolve the problems with the existing sequential numbering rules. As contemplated in the *Numbering Order*, new numbers become available in thousands-blocks and when a given thousands block is exhausted a new block would be opened, making 1000 numbers available. Arch, on the other hand, believes that the Commission should establish 1000 as the "available number count" threshold. In other words, 1000 numbers would always be available to a carrier. As numbers are used, new individual numbers would be opened as needed to maintain 1000 available numbers. Arch submits that this

alternative is as efficient as the Commission's current rule but offers much greater flexibility to meet customer needs.

VI. NATIONAL RULES

In the *Numbering Order*, the Commission acknowledged the relationship between a competitive telecommunications market and national numbering rules. The Commission stated that “because competition in telecommunications markets is dependent, in part, upon fair and impartial access by all telecommunications carriers to national numbering resources, we view our efforts with regard to numbering resource optimization as an integral part of the Commission's overall efforts to implement the pro-competitive goals of the 1996 Act.” Arch fully supports the establishment of federally-mandated, national rules regarding numbering in order to prevent the balkanization of regulation. Absent national rules, Arch believes that carriers will face an almost overwhelming compliance burden that may significantly hamper their ability to quickly respond to competitive market forces.

As noted above, Arch is a nationwide carrier with a nationwide paging network that relies on standard, centralized processes to operate efficiently. Everywhere possible, these processes are automated to support Arch's business and enable the company to maximize its resources. If Arch had to address numbering obligations on a state-by-state basis, Arch's staff would have to intervene manually, redirecting staff time and resources which could materially affect Arch's ability to meet customer expectations and respond to rapidly changing competitive market conditions. Arch agrees with the Commission that implementing national numbering rules is a necessary component to facilitate continued, robust competition in the telecommunications marketplace. The record in this proceeding reflects a general consensus on this issue. Furthermore, in their petitions for reconsideration, states did not appear to directly take issue with the Commission's plenary jurisdiction with respect to numbering. Arch agrees with PCIA that the California

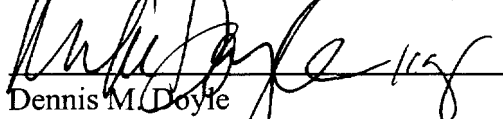
PUC, the Maine PUC and the Public Utility Commission of Ohio merely seek to amend, not overturn, the balance the Commission has established between federal and state authority in this area.²⁹

CONCLUSION

For the reasons set forth herein and in the Petitions for Reconsideration and Comments filed in this proceeding, Arch respectfully requests the Commission reconsider and clarify those portions of the *Numbering Order* discussed above.

Respectfully submitted,

ARCH COMMUNICATIONS GROUP, INC.



Dennis M. Doyle

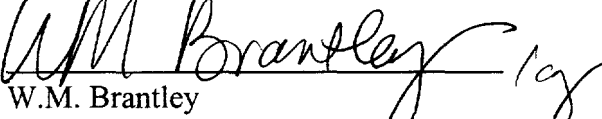
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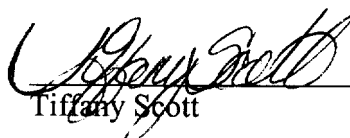
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